1951

Examined

**File No.** Misc. Suits (Belgaum) / 51

Legal **DEPARTMENT**

~~A~~ **BRANCH**

**Subject:—** Miscellaneous Matters pertaining to Suits from Belgaum District

P. 11

Misc. Suits (Belgaum) / 51

**File No.**

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C O N T E N T S.

Legal Department File No. Misc. Suits Bel./51.

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Suits-

Miscellaneous Matters pertaining to suits from Belgaum District.

Misc. No. 184./1950.

D. B. Gumastet ~~Gumastet~~ Plff.

V/S

1) The Bombay State Road Transport Corporation

2) The state of Bombay Defts.

Claim Rs. 15,000/- for both purposes.

Reg. Suit No. 283/1950.

T. P. Bhandari Plff

V/S.

The State of B'bay. Deft.

Claim Rs:- 800/- for both purposes.

1-20.

Misc. No. 184 of 1950.

In the Court of Civil Judge, S.Dn, Belgaum.

1. Dattatraya Bhaskar Gumaste, age 15, Occ. student, residing at Poona by his next friend, natural father, Bhaskar Devarao Gumaste, age 43, Occ. service residing at Poona, 10, Gokhale Building Tilak Road. .... .. .... .. Plff.

Vs.

1. The Bombay State Road Transport Corpo-ration, having its office at 80, Love Grove Road, Worli, Bombay No. 18.

2. The State of Bombay now represeting the Bombay State Road Transport Corporation. .... Defts.

Claim Rs. 15,000/- for court fees and jurisdiction.

In this the plff above-named begs to state as follows:-

1. The deft No.1 had started Bus service between Kolhapur and Belgaum, about the month of May 1950. The plff Dattatraya was travelling as a paid passenger on 9-6-1950, from Nippani in Taluka Chikkodi, to Belgaum by the Bombay State Road Transport Bus bearing No. BMS/5837 - under which the name the buses of the deft No.1 were playing for service. The said bus after it had travelled about 10 miles from Nippani reached a curving slope on the way. The driver of the bus, continued driving it at a high speed of the bus, continued driving it at a hihg speed and in a rash and negligent manner with the result that the bus dashed againnst a tree on the right side of the road. As a result of this collision, about 7-8 passengers in that bus includi-ng the plff were injured; but the injuries sustained by - the plff were very severe and of a serious nature as they were caused on his private parts. He was then taken back to Nippani were some medical aid was given to him. The - Doctor at Nipranxi however advised that the case was serious and that the immediate surgical operation was necessary. Accordingly the plff was removed to the Pramila Raje Hospital at Kolhapur, where the underwent an operation under cloroform for rapture of the urethra. He had to

P.T.O.

remain there as an indoor patient for more than three weeks and was discharged on 3-7-1950. On his return to Poona, he had to continue the medical treatment. However after the lapse of a few days the plff began to suffer agains from obstruction of the urinal passage and the retention of urine as before. He was examined by Dr. K.C.Gharpure - F.R.C.S., Poona, who advised that ~~the~~operation again was necessary. Accordingly the plff was operated upon by Dr. Gharapure, who treated him for about 21 days in his hospital as an indoor patient. He was - then discharged and was again admitted as an indoor patient for about 12 days, for the same trouble. Since the 25th of September, the plff has been receiving - medical treatment in the said hospital for about four ~~months~~ or five times every month, upto this day.

2). The collision of the bus as stated above took place on account of the rash and grossly negligent driving of the bus driver and also the want of proper supervision and inspection of the bus and negligence and want of foresight and care on the part of the employees and members of the staff of the Corporation concerned, in the department and failure to take all the necessary precautions. The corporation is responsible for the - consequences of the negligent acts and conduct of its employees and servants and therefore bound to pay the plff adequate compensation for the damage and loss suffered by him as a result of the above-mentioned incident. The plff had to suffer physically, mentally and finacially to a very great extent on that account. His parents also were put to great trouble, inconvenience and mental worry, and they had to incur heavy expenses for the plff's - medical treatment. The plff had a robust constitution - before the above-mentioned incident; but he is now suffering from the general infirmity and incapacity and defect-

physique and private parts which are likely to become - permanent and create other com lications in his health. The future roppects of the plff have thus been considera- bly marred, as he cannot now undertake any adventurous line or profession, rquiring physical exertion and activit He is a school-going boy studying in the English VI stande -rd a nd the course of his education has also been disturb -ed and u set. The plff therefore gave a 2 months' notice to the deft No.1 as required by section 38 of the Bombay State Road Transport Act 1950 and the deft No.1 has -- replied to it on 24-10-1950 denying liabilty to pay any compensation to the plff.

3. The deft No.1 has made some unjustifiable and false allegations in his reply to the plff's notice, which is is not necessary to traverse in detail now. The bus was not driven at the normal speed of 20 miles per hour, as alleged nor was the incidnet due unforeseen - circumstances. It is not true that the plff went away - without receiving any treatment in the Lafatte Hospital at Nippani. The truth is that the persons then in charge that hospital obseved that the plff having sustained - severe injuries, should seek medical aid elsewhere. The plff had therefore to find his own doctor. The deft No.1's servants had not taken all the necessary precautions - required under law and usual practice also, for the safety of the passeengers and the occurance was not a pure - incident owing to no fault of the driver as alleged in the notice. As the deft No.1 unreasonably and unjustly denied his liability to pay compensation to the plff. This suit has been filed to recover compansation and damages of Rs. 15000/- as stated below:-

| | | |
|---|---|---|
| Rs. | 2000-0-0 | Expenses of medical treatment. |
| " | 2000-0-0 | Further incidental expenses. |
| " | 3000-0-0 | Compensation for the physical - suffering and mental pain and - trouble from which the plff suffere |
| " | 8000-0-0 | Compensation for the disturbance of study and loss which my client suffered and is likly to suffer in future during his life |
| Total Rs. | 15000-0-0 | |

The deft No.1 is liable to pay compensation to the plff as claimed above, even if it is held that the occurance was a pure accident, as alleged in the deft's reply, in view of the provisons contained in the Bombay Act XXV of 1950, and the Motor Vehicles Act of 1939 and also under the General law of Torts.

The cause of action arose on 9-6-1950, i.e. on the date of the motor collission when the plff sustained injuries.

4). This court has jurisdiction to try this suit, as the cause of action arose within the special Jurisdiction of this court.

5). The value of the suit for court fees is Rs. 15,000/- as shown in para 3 above; the value ~~of~~ for jurisdi-ction is also the same.

6. When the cause of action for this suit arose, the deft No.1 was recognised by law as a Corporation and it was governed by the Bombay Act No. XXV of 1950. The necessary notice to deft No.1 as required by this act under section 38 has been given on 4-9-1950 and this suit has been filed within six months from the date of the indident. But according to the recent decision of the High Court of Bombay, the Corporation has been held to the illegal and at present, it is learnt that the State of Bombay has taken over the Corporation and the management of its affairs. Hence in order to avoid any possible technical contention being raised in defence, the plff has thought it advisable to implead both the Corporation and the State of Bombay, as defts'in the suit.

7). The plff Prays:-

1. A decree may kindly be passed against the deft or the defts, who may be found liable, to the plff's claim for Rs. 15,000/- as detailed in para 3 above and for future interest at Rs. 6% and for costs of this suit.

2. Any other reliefs which the court deems fit to grant may also be awarded.

3. Permission be granted to amend the plaint, if found necessary.

8) The plff is not possessed of sufficient means to enable him to pay the court fees necessary for the plaint; hence it is prayed that he may kindly be permi-tted to sue in forma pauperis. The list of properties in plff's possession is produced herewith.

signed and dated 8-12-1950.

Drafted and Presented by:- sd. C.D.Gumaste,
Pleader, Belgaum.

No. J. 174 Of 1951.
Belgaum, 27th June 1951.

To

The Collector of Belgaum.

Subject:- Misc. Appl. No. 184 of 1950, on the file of C.J. Dattatraya Bhaskar Gumaste. .. ... Plff.
Vs.
The State of Bombay and another .. .. Oppns.

Sir,

With reference to the subject noted above and in continuation of this office No. J. 54 of 1951 dated 8th March 1951, for obtaining the Govt. sanction to appose the Misc.No. 184/50, on the file of the Civil Judge, S.In, Belgaum, I have the honour to inform you to kindly intimate me the action taken by you with necessary instructions. The matter is again fixed for put in the objections on 24-7-1951. This may kindly be treated as very urgent.

Yours faithfully,

Dist.Govt.Pleader, Belgaum.

Copy forwarded with compliments to the Remembrancer of Legal Affairs, Bombay for information and necessary action.

Submitted for information & orders

2/7

ASM

Please see the letter overleaf from the D.J.P. Belgaum. It appears that he is seeking instructions for my disposal of the pauper application under Rule 147 of the Land Officers Rules the D.J.P. is to communicate with the Inam Collector concerned & obtain the necessary information & do in the matter. This office has nothing to do in the matter. The D.J.P. may therefore be advised to take action as per Rule 147 of the L.O. Rules.

Sd/ [illegible] 7/2/17 Sd/ 2-7.

9 — 15

Office of the R.L.A.

The Assistant Director of Public Health, S.R.D., Belgaum, may be asked to submit a report under rule 118 of the Law Officers Rules to this office through the proper channel in order to enable this office to sanction the defence of the suit.

OC

For Remembrancer of Legal Affairs.

U.R.to L.S.G.& P.H.D.,No. 652602-9, dated the 24/11 September 1951.

MRP. 22/9 : Subd. for sign

NB 22/9

A. Sdr (M)

Issued 24/9.

Subdiv. offr issue.

File in Misc. Instr. - Belgaum/57

NB
25/9

A. Sec(M)
25/9.

Under-Secy (Belgaum)/57-
26/9/57-

Misc suit Belgaum 57

No. J.79 of 1952. 11 29
Belgaum, 31st January 1952.

To

The Remembrancer of Legal Affairs, Bombay.

Subject:- Misc.Application No. 184 of 1950.
Dattatraya Bhaskar Gumaste
Vs.
The Bombay State and another.

Sir,

With reference to the subject noted above I have the honour to inform you that the case No. 184/1950 is again fixed for ~~hear~~ puting the objections of Defendant No. 2 on 12th Feb. 1952 in the court of Civil Judge, S.Dn., Belgaum. You are, therefore, requested to obtain Government sanction for defence of the case and forward me the draft ~~the~~ copies of objections to file in the court at an early date.

Copy of the objections put in on behalf of the Opponent No.1 to the application of plff is sent herewith for your information, and copy of ~~objections~~ the report put in on behalf of the Government Pleader to the application for papperism is also sent herewith.

Yours faithfully,

Dist.Govt.Pleader, Belgaum.

Subject for order

FAC 13/2

A Sols

Please see the letter over-leaf. It appears to relate to an application made by the Pte for permission to sue as a pauper. Under Rule 147 (4) of the Law Officers' Rules it is for the Collector to decide whether a pauper application should be offered or not. D.J.P. duly thereon he requested to take action as required under Rule 147 of the said Rules. As for direction of the case. The D.J.P. may be informed that necessary orders will be issued after the application is ordered to be granted & a draft of same after the report of the Sheriff is received from the Collector.

Sol. (Mos.) W 14/2

13—34

Misc. No. 184 of 1950

Ex.8.

In the Court of Civil Judge, S.Dn., at Belgaum.

1. Dattatraya Bhaskar Gumaste ... ... Applicant.

Vs.

1. The Bombay State Raod Transport Corp. ... ... Respond-ent

The facts stated in the petition of the applicant are not admitted by the Defendant. The Plaintiff possesses sufficient means to pay the Court Fee. The plff has not furnished the true particulers required of him in the schedule attached to the petition and thus his petition is liable to be dismissed with costs.

Attestation.

The undersigned solemnly affirm that the contents of the above petion are correct in accordance with the information supplied to him.

For Bombay State Road Transport Corporation.

sd.
Secretary,
Bombay State Road Transport Corporation, Bombay.

Bombay

13th Bebruary 1951.

G.L.Puri
Advocate for respondent No.1
14-2-1951.

15 33

Misc.No. 184 of 1950

In the court of Civil Judge, S.Dn., at Belgaum.

1. Dattatrya Bhaskar Gumaste. ... ... ... Plff.

Vs.

1. The Bombay State and another. ... ... Defts.

Herein the say of the District Government - Pleader,Belgaum to the plff's application dated 28-9-1951 is as under:-

The Mamlatdar, Poona City reports that the minor is the member of a joint family and the next friend of the minor is his managing father.As such the family possesses property wherein the minor has got a right and interest.His father's status will, therefore, be stauts of the minor and he is possessed of sufficient means to enable him to pay the necessary fees. The minor is not therefore a pauper and his application deserves to be rejected.

5-12-1951.

sd. M.M.Iad

I/C.Dist.Govt.Pleader,Belgaum.

Ex. 9 17

ಸಿ/೬/ಸಂ. ೧೨೩/೧೯೯೯

ಬೆಳಗಾವಿ ಸಿ. ಜೆ. ಸಿ ಪಿ. ಕೋರ್ಟ್ ಅಂಗಳದಲ್ಲಿ.

ಶ್ರೀ ಅಂಗಡಿ ಪಕ್ಷಕ್ಕಾರರು ಪರವಾಗಿ ವಕೀಲರು ಹಾಜರು

ಶ್ರೀ ಹಿಂದುಸ್ತಾನಿ ಪರವಾಗಿ ವಕೀಲರು ಹಾಜರು.

ಕಾರ್ಯ —

ಪ್ರತಿವಾದಿಯವರ ಪರವಾಗಿ ಸಾಕ್ಷಿಯು ಅವ್ವ ಯಮ್ಮಿಕಟ್ಟಿ ಅವರು ಪ್ರಮಾಣ ಪೂರ್ವಕವಾಗಿ ಹೇಳಿಕೆ ಕೊಟ್ಟಿದ್ದು ಅದನ್ನು ಗುರುತಿಸಲಾಗಿದೆ.

ಪ್ರತಿವಾದಿಯವರ ಪರವಾಗಿ ಸಾಕ್ಷಿಯು ಶಿವಪ್ಪ ಯಮ್ಮಿಕಟ್ಟಿ ಅವರು ಪ್ರಮಾಣ ಪೂರ್ವಕವಾಗಿ ಹೇಳಿಕೆ ಕೊಟ್ಟಿದ್ದು ಅದನ್ನು ಗುರುತಿಸಲಾಗಿದೆ.

ಪ್ರತಿವಾದಿಯವರ ಪರವಾಗಿ ಸಾಕ್ಷಿಯು ಬಸಪ್ಪ ಯಮ್ಮಿಕಟ್ಟಿ ಅವರು ಪ್ರಮಾಣ ಪೂರ್ವಕವಾಗಿ ಹೇಳಿಕೆ ಕೊಟ್ಟಿದ್ದು ಅದನ್ನು ಗುರುತಿಸಲಾಗಿದೆ.

ಪ್ರತಿವಾದಿಯವರ ಪರವಾಗಿ ಸಾಕ್ಷಿಯು ಮಲ್ಲಪ್ಪ ಯಮ್ಮಿಕಟ್ಟಿ ಅವರು ಪ್ರಮಾಣ ಪೂರ್ವಕವಾಗಿ ಹೇಳಿಕೆ ಕೊಟ್ಟಿದ್ದು ಅದನ್ನು ಗುರುತಿಸಲಾಗಿದೆ.

ಪ್ರತಿವಾದಿಯವರ ಪರವಾಗಿ ಸಾಕ್ಷಿಯು ಮಲ್ಲಪ್ಪ ಯಮ್ಮಿಕಟ್ಟಿ ಅವರು ಪ್ರಮಾಣ ಪೂರ್ವಕವಾಗಿ ಹೇಳಿಕೆ ಕೊಟ್ಟಿದ್ದು ಅದನ್ನು ಗುರುತಿಸಲಾಗಿದೆ.

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ಪ್ರತಿವಾದಿಯವರ ಪರವಾಗಿ ಸಾಕ್ಷಿಯು ಮಲ್ಲಪ್ಪ ಯಮ್ಮಿಕಟ್ಟಿ ಅವರು ಪ್ರಮಾಣ ಪೂರ್ವಕವಾಗಿ ಹೇಳಿಕೆ ಕೊಟ್ಟಿದ್ದು ಅದನ್ನು ಗುರುತಿಸಲಾಗಿದೆ.

19

Reg. Suit No. 283 of 1950.

In the Court of the Civil Judge, S.Dn, Belgaum.

1. Tarachand Palamal Bhandari, age 65,
Trader Hindu of T, wadi. ... ... Plff.

Vs.

1. The State of Bombay. ... ... Deft.

Claim Rs:- 800/- For court fees and Jurisdiction, both.

In this the plff states as under:-

1. Plff constructed 5 'Moryas i.e culvirts in the Angol' Extention under an agreement with the Angol State(Kurandwad Jr Junior) which agreed to pay Rs. 135/- per Mory i.e culvirt to him. The time was not the essence of the contract but on their completion to the entire satsifaction of the State authorities concerned.By about the end of March 1947 plff submitted a bill of Rs. 675/- therefor for payment, but the same has remained to be unpaid inspite of repeated deamands to this date.

2. As the said State has been merged in the State of Bomay which the sucessor thereof, the State of Bombay is now liable to pay to plff the amount of Rs. 675/- with interest as a successor and enjoying the benefit of the work done by plff and him this for the recovery of Rs. 675/- with interest at 6% from the end of March 1947 to the and date and last.

3. Perticulers of the claim due to plff

| | |
|---|---|
| Rs. 675- 0 - 0 | Amount agreed to be paid. |
| Rs. 121- 0 - 0 | Interest at the rate of 6% from 1-4-47 to this date. |
| 3- 0 - 0 | Notice fee and expenditure. |
| Rs. 800- 0 - 0 | Total amount due from Plff Deft. |

4. The cause of action arose on the date when the work was completed and bill submitted i.e after the end of March 194

5. The cause of action has arisen within the jurisdiction of this court and this court has jurisdiction to try

this suit. The suit is against Govt. and hence within the Sp. jurisdiction of this court.

6. For court fee and jurisdiction the suit is valued at Rs. 800/- and court fee is paid thereon.

7. The suit is brought us the name of the state and a notice under section 80 of C.P.C . has been given and served on the Collector on 19-12-1949.

8. The plff therefore, prays that rejecting all the contentions of the Deft a decree may kindly be passed against him directing him to pay to plff Rs. 800/- Eight hundred with future interest and costs of the suit.

Documents as per list are produced.

Drafted by

Sd.
R.P.Bhandari,
Pleader.

18-3-1950.

Verified and signed by
Tarachand on 18.3.1950